ANNEXURE

THE MYSORE LIFTS BILL, 1973

(I. A. Bill No 24 of 73)

A Bill to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and appartus pertaining thereto in the State of Mysore.

WHEREAS it is expedient to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the State of Mysore ;

BE it enacted by the Mysore State Legislature in the Twenty-fourth Year of the Republic of India as follows :—

1. SHORT TITLE, EXTENT AND COMMENCEMENT.—(1) This Act may be called the Mysore Lifts Act, 1973.

(2) It extends to the whole of the State of Mysore

(3) It shall come into force on such date as the Government may by notification appoint.

2. DEFINITIONS.—In this Act, unless the context otherwise requires.—

(*a*) "Government" means the State Government ;

(*b*) "Inspector of Lifts" means on officer appointed as such by the Government :

(*c*) "licence" means a licence granted under Section 4 ;

(*d*) "lift" means a hoisting mechanism equipped with a car which moves in a substantially vertical direction, is worked by power and is designed to carry passengers or goods or both ;

(*e*) "lift car"-means the cage or car of a iift used whether for the conveyance of passangers or goods or both and includes the floor or platform car frame, sling and enclosing body work but shall not include a hoist or lift to which the Factories Act, 1948, applies;

(*f*) "lift installation". includes the lift car, the lift way, the lift way enclosure and the operating mechanism of the lift and all ropes, cables, wires and plant, directly connected with the operation of the liit;

(*g*) "lift way" means the shaft in which the lift car travels;

(*h*) "lift way enclosure" includes and permanent substantial strucre surrounding or enclosing the lift way;

(*i*) "notification" means a notification published in the official Gazette;

(*j*) "power" means any form of energy which is not generated by human or animal agency: and

(*k*) "prescribed" means prescribed by rules made under this Act.

3. PERMISSION TO ERECT A LIFT.—Every owner of a place intending to instal a lift in such place after the commencement of this Act shall make an application to such officer as the Government may authorise in this behalf for permission to erect such lift. Such application shall be in writing and in such form as may be prescribed. Such application shall specify—

(*a*) the type of the lift;

(*b*) the rated maximum speed of the lift;

(*c*) the maker's or designer's rated capacity in weight;

(*d*) the maximum number of passengers in addition to the lift operator which the lift can carry;

(*e*) the total weight of the lift car carrying the maximum load;

(*f*) the weight of the counterweight ;

(*g*) the number, description, weight and size of the supporting cables ;

(*h*) the depth of the pit from the lowest part of the car when at the lowest floor ;

(*i*) such details of the construction of the overhead arrangement with the weight and sizes of the beams as may be prescribed ; and

(*j*) such other particulars as may be prescribed

On receipt of such application the officer authorised under this Section shall, after making such enquiry and requiring the applicant to furnish such information as may be necessary, forward the application with his remarks to the Government. The Government may thereupon either grant or refuse the permission. Such permission shall be valid only for a period of six months from the date on which it is granted..

4. LICENCE TO USE A LIFT :— (1) Every owner of a place who is permitted to instal a lift under Section 3, shall, within one month after the completion of the erection of such lift deliver or send or cause to be delivered or sent to such officer as the Government may authorise in this behalf notice in writing of such completion and shall make an application to him for a licence for working the lift.

(2) An application for a licence made under sub-section (1) shall be in such form as may be prescribed.

(3) On receipt of such application such officer as may be authorised in this behalf by the Government, after making such enquiry as may be necessary, forward the application with his remarks to the Government. The Government may, thereupon, either grant or refuse the licence.

(4) A fee of rupees one hundred shall be paid along with such application.

(5) APPLICATION FOR LICENCE IN CASE OF EXISTING LIFTS :— (2) Notwithstanding anything contained in Sections 3 and 4 every owner of a place in which a lift has been installed before the date of the commencement of this Act, shall within two months from such date apply for a licence for the working of such lift.

(2) The provisions of sub-sections (2) to (4 of Section 4 shall, so far as may be, apply to such application

6. LIFT NOT TO BE OPERATED WITHOUT A LICENCE :-- Subject to such rules as may made in this behalf no lift shall be worked except under and in cenformity with the terms of the licence granted in respect of the same :

Provided that nothing in this Section shall apply to a lift installed at the date of the commencement of this Act, for a period of two months from such date or if an application for licence is made within that period in accordance with the provisions of Section 5, until such application is finally disposed of under the said Section.

7. ADDITIONS AND ALTERATIONS TO THE LIFT INSTALLATION :— No additions or alterations other than those required to be made under sub-section (2) of Section 8, shall be made to any lift installation except with the previous permission in writing of an officer authorised in this behalf by the Government.

8. RIGHT TO ENTER ANY BUILDING FOR INSPECTION OF LIFTS AND LIFT INSTALLATION :— (1) An officer authorised in this behalf by the Government may at any time after giving reasonable notice to the occupant enter upon any building in which a lift is installed or is being installed or in connection with which an application for a licence has been received, for the purpose of inspecting the lift or the lift installation or the site thereof.

(2) If on such inspection the officer is of the opinion that any lift in any building is in an unsafe condition, he may issue an order on the owner of the building or his agent appointed under sub-section (2) of Section 10 requiring such repairs or alterations to be made to such lift as he may deem necessary within the time specified therein and may also, if necessary, order the use of such lift to be discontinued until such repairs or alterations are made or such unsafe condition is removed. The owner or his agent, as the case may be, shall thereupon comply with the order within the period specified therein and shall forthwith report in writing to the officer of having so complied.

(3) Any person aggrieved by an order of the officer under sub-section (2) may, within thirty days from the date of such order appeal to the Appellate Authority appointed in this behalf by the Government.

(4) Notwithstanding any appeal made under sub-section (3), any order to discontinue the use of a lift made by the officer under sub-section (2)shall be complied with unless the Appellate Authority has reversed such order.

(5) The order made by the officer under sub-section (2), subject to an appeal to the Appellate Authority, and the decision of the Appellate Authority on the appeal, shall be final.

9. OWNER TO GIVE FACILITIES FOR INSPECTION.— The owner of a building in which a lift is installed or his agent appointed under sub-section (2) of Section 10 shall afford all reasonable facilities to the officer for inspecting a lift under Section 8 and whenever ordered to do so by the officer shall, at his own cost, procure at such inspection, the attendance of the person, if any, with whom he has entered into a contract for the erection or maintenance of the lift or a representative of such person who is competent to guide the officer in inspecting the lift.

10. REPORT OF ACCIDENTS.—(1) Where any accident occurs in the operation of any lift which results or was likely to result in injury to any person, the owner of the building in which the lift is working or if such owner has appointed an agent and has communicated his name to the Inspector of Lifts under sub-section (3), such agent shall, as soon as may be, after such accident give notice with full details of the accident to the Inspector of lifts and also to the Commissioner of Police of the City of Bangalore and elsewhere to the District Magistrate or such officer as the Government may by order specify and the lift installation shall not be interefered with in any way and the working of such lift shall not be resumed except with the written permission of the officer authorised in this behalf by the Government.

(2) For the purposes of sub-section (1), the owner of every building in which a lift has been installed may, and if such owner does not reside in such building shall, appoint an agent who shall be a resident in the town or village in which the building is situate to give notice of any accident occurring in the operation of the lift.

(3) The name of every agent appointed under sub-section (2) shall be communicated to the Inspector of lifts.

11. DELEGATION OF POWERS OF GOVERNMENT.— The Government may by order published in the official *Gazette* delegate any of the powers conferred on it by or under this Act (other than the power to make rules under Section 14) subject to such conditions as may be specified in the order to such officer as it thinks fit.

12. INSPECTION OF LIFTS.— Every lift shall be inspected at least once in three months by an officer authorised in this behalf by the Government. An annual fee of rupees fifty shall be charged for such inspection and such fee shall include the charges for the inspection of the motor.

13. RECOVERY OF FEES.— All sums payable as fees under this Act shall be recoverable as arrears of land revenue.

14. POWER TO MAKE RULES.— (1) The Government may after previous publication, by notification make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely :—

(*a*) specifications for lifts ;

(*b*) the manner in which erection plans of lifts shall be submitted ;

(*c*) the manner in which the lifts may be tested ;

(*d*) the form of application for the erection of a litt or a licence for working the same ;

(*e*) the terms and conditions subject to which and the form in which the licences may be granted for the working of a litt under Section 6 ;

(*f*) the manner in which and the terms subject to which the litts shall be worked under Section 6 ;

(*g*) the manner in which notice of accidents shall be given and the from of such notice, and

(*h*) the form of notice to be given under Section 8

(3) Every rule made under this section shall be laid, as soon as may be, after it is made before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session, or successive sessions aforesaid both Houses agree in making any modification in the rule or

both Houses agree that the rule should not be made, the rule shall, from the date on which the modification ar annulment is notified by the Government in the official *Gazette*, have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

15. PENALTY.—Whoever contravenes any of the provisions of this Act; rules or conditions of a licence or a direction given by the Inspector of lifts under this Act or the rules shall, on conviction, be punishable with fine which may extend to one thousand rupees and in default to simple imprisonment which may extend to one month and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

16. OFFENCES BY COMPANIES.—(1) If a person committing an offence under this Act is a company, every person, who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by company and it is proved that the offence has been committed with the consent or connivance of, or

is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

EXPLANATION.—For the purpose of this section.—

(*a*) 'company' means a body corporate and includes a firm or other association of individuals and;

(*b*) 'director' in relation to a firm means a partner in the firm.

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17. SANCTION FOR PROSECUTION.—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Government.

18. SERVICE OF NOTICES, ORDERS OR DOCUMENTS.—(1) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left.

(a) where a Government is the addressee, at the office of the agent appointed under sub-section (2) of section 10;

(b) where a local authority is the addressee. at the office of the local authority;

(c) where a company is the addressee, at the registered office of the company or in the event of the registered office of the company not being in India;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or

the agent of the owner, or the occupant of any premises shall be deemed to be properly addressed, if addressed by the description of the 'owner' or 'agent of the owner' or 'occupant' of the premises' (naming the premises) and may be served by delivering it or a true copy thereof, to some person on the premises or, if there is no person on the premises to whom the same can with reasonable deligence be delivered by affixing it on some conspicuous part of the premises.

19. PROTECTION FOR ACTS DONE IN GOOD FAITH.—No suit, prosecution or other legal proceedings shall be instituted against any officer for anything which is in good faith done or intended to be done by on number this Act.

20. SAYING.—Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910, or any rules made thereunder.

21. Repeal.—On the date on which this Act comes into force the Bombay Lifts Act, 1939 (Bombay Act 10 of 1939) as in force in the Bombay Area shall stand repealed.

Provided that Sections 8 and 24 of the Mysore General Clauses Act, 1899 shall be applicable as if the said enacIment had been repealed and re-enacted by this Act.

STATEMENT OF OBJECTS AND REASONS

Consequent upon the construction of many multi-storeyed buildings with lifts particularly in Bangalore City, the number of lifts working in the State is on the increase. A number of safety devices and safety precautions are necessary for operating the lifts in the interest of the safety of users. But they cannot be insisted upon in the absence of proper authority. The Bombay Lifts Act, 1939 is in force at present in the Bombay Area only. It is therefore proposed to enact a law on the line of the Bambay Act applicable throughout the State.

Hence this Bill.

FINANCIAL MEMORANDUM

It is proposed to appoint the Electrical Inspector to Government as Inspector of Lifts in addition to his own duties. Consequently no additional expenditure is likely to be involved as a result of the Bill being enacted into law. On the other hand Government is likely to realise a sum of rupees fifteen thousand every year by way of inspection charges on the assumption that there will be about three hundred lifts working in the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

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Under clause 11 of the Bill, power is conferred on the State Government to delegate to such officer as it thinks fit, its powers under the Bill other than the powers to make rules under clause 14, subject to such conditions as may be specified in the order to be published in, the official *Gazette*.

Under clause 14, power is conferred on the State Government to make rules after previous notification. Sub-clause (2) of clause 14 specifies the various matters in respect of which rules can be made by the State Government. Under sub-clause (3) of clause 14, rules made under the Act are required to be placed before the Houses of Legislature and are subject to modifications to be made by the Houses.

The proposed delegation of legislative power is of a normal character.

H. M. CHANNABASAPPA

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